



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

COLEBROOK EDUCATION ASSOCIATION,
NEA-New Hampshire

Petitioner

and

SCHOOL ADMINISTRATIVE UNIT NO. 7,
COLEBROOK SCHOOL DISTRICT

Respondent

CASE NO. T-0219:4

DECISION NO. 82-62

APPEARANCES

Representing the Colebrook Education Association:

John Fessenden, UniServ Director, Region V

Representing the Colebrook School District:

Stephen E. Dehl, Superintendent, S.A.U. 7

BACKGROUND

This matter came on for hearing before the undersigned hearing officer on July 14, 1982 pursuant to a request for modification and inclusion of a new position, that of guidance counselor, into the bargaining unit.

The request was submitted to the Public Employee Labor Relations Board by John Fessenden, UniServ Director, Region V, NEA-NH, on behalf of the Colebrook Education Association, (CEA), in accordance with Article I, "Recognition Clause" of the agreement entered into on March 25, 1982 between the Colebrook School Board (Board) and CEA.

The Board by way of its representative, Stephen E. Dehl, Superintendent, S.A.U. 7, raised one preliminary objection to the request to the Public Employee Labor Relations Board (PELRB) for the modification of the existing unit.

It was the feeling of the Board that this issue should have been presented formally and in good faith at the bargaining table by CEA, or by their representative, NEA-NH UniServ Director, during the course of negotiations. A major portion of negotiations had

been devoted to new contract language and at no time during the entire course of negotiations had there been mention by the CEA negotiating team of inclusion of this position in the bargaining unit in the next contract year. The Board felt that this matter was an issue properly addressed through that process.

FINDING OF FACTS

Although the Board desires to maintain control and properly address the issue through the negotiations process, it is found to be properly before PELRB for resolution in accordance with Article I of the agreement which states, in part:

"New Position: ...'If any new employee position is created during the life of this agreement and the parties cannot mutually agree on its inclusion in the bargaining unit, either party may request a clarification and determination from the New Hampshire Public Employee Labor Relations Board. This position, if so found by the Public Employee Labor Relations Board to be a position that should be in the agreement, shall become a part of the following agreement.'..."

Evidence was presented that representative, Mr. Fessenden, had made a request of Superintendent Dehl to include the new position into the unit and the request was denied.

It was further stated that the CEA chief negotiator on one occasion had requested the Board include the position in the unit and that request was also denied.

The position of guidance counselor is a new position and was not previously included in the bargaining unit.

The contract language in Article I, Recognition, would serve to nullify any significant degree of negotiations with regard to new positions being included in the unit. Certainly the mere request and denial would constitute a mutual disagreement and, therefore, the matter properly submitted to PELRB for resolution.

The foregoing shall constitute the findings and ruling of the hearing officer in accordance with PELRB Rules and Regulations.

DECISION AND ORDER

After consideration of all testimony, it is held that the Colebrook Education Association and the Colebrook School Board cannot mutually agree on this matter and it is the opinion of the hearing officer that the position of guidance counselor should be included in the bargaining unit.



DAVID L. MAYHEW, Hearing Officer

Signed this 9th day of September, 1982